

TENTATIVE MAP

FILE NO.	T19-029
LOCATION OF PROPERTY	200 Hayes Avenue (Southwest Corner of Hayes Avenue and Lean Avenue)
ZONING DISTRICT	R-2 Two-Family Residence District
GENERAL PLAN DESIGNATION	Mixed Use Neighborhood
PROPOSED USE	Tentative Map application to allow the subdivision of a 0.41-gross acre site into three lots
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines Section 15303 (a) New Constructions of Small Structures
APPLICANT ADDRESS	Henry Cord 401 Fieldcrest Drive San Jose, CA 95123
OWNER ADDRESS	Sharon Xu 1085 Windsor Street San José, CA 95129

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as following for this proposed project:

1. **Project Description.** The Tentative Map Permit is to allow the subdivision of a 0.41-gross acre site into three lots.
2. **Site Description.** The 0.41-gross acre site is located at the southwest corner of Hayes Avenue and Lean Avenue at 200 Hayes Avenue. The site is currently developed with a single-family house. The site is surrounded by duplexes to the south and multi-family residential uses to the east across Lean Avenue, single-family residences to the north across Hayes Ave and Oak Grove High School to the west.
3. **General Plan Conformance.** The Envision San José 2040 General Plan's Land Use/Transportation Diagram designation for the subject site is Mixed Use Neighborhood. This designation is applied to areas intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. This designation is also intended to provide a transition between higher-density and lower-density neighborhoods. The proposed 3-lot subdivision for single-family residences will allow the transition from duplex to the south of the site to the single-family houses to the north across Hayes Avenue. Therefore, the subdivision is consistent with the Mixed Use Neighborhood land use designation.

4. **Zoning Ordinance Compliance.** The project site is located within the R-2 Two-Family Residence District. The proposed lot sizes are 5,449, 5,446 and 5,490 square feet, which exceed the minimum lot size of 5,445 square feet.
5. **Subdivision Ordinance Compliance.** The Subdivision Ordinance allows the Director to permit the reduction of the minimum lot area (6,000 square feet), lot frontage (55 feet) and lot depth (120 feet) pursuant to Subdivision Ordinance Section [19.36.180](#), [19.36.200](#) and [19.36.220](#). The proposed subdivision will have two lots (Parcels 2 & 3) facing Lean Avenue and one lot (Parcel 1) facing Hayes Ave. The proposed lot sizes meet the Zoning requirement as discussed above. The proposed Parcel 1 has a lot width of 50 feet, which matches the lot width of the single-family houses to the north across Hayes Avenue. Parcel 1 has a lot depth of 109 feet due to the required street dedication along Hayes Avenue. Parcel 3 has a lot width of 54.46 feet, slightly less than the 55-foot minimum requirement. Parcels 2 & 3 are 100-foot deep due to the existing site dimensions and street dedications. These reductions are acceptable because the proposed three lots will continue the existing lot pattern to the south of the site along Lean Avenue and allow the transition from duplex to single-family home to the north.
6. **Environmental Review.** The intent of the 3-lot subdivision is to allow the construction of one single family house on each new lot in the future. Therefore, to determine the level of CEQA analysis, the project scope should include not only the demolition but also the subdivision and the construction of three single-family houses in the future.

The existing house on site was built in 1957. A report entitled “Historical and Architectural Evaluation of the Residential Building Located at 200 Hayes Avenue” and DPR series A & B prepared by Bonnie Bamburg of Urban Programmers dated November 25, 2019 were submitted and reviewed by the City’s Historic Preservation Officer (HPO). The HPO determined that the demolition of the existing single-family house on site will not result in an environmental impact because there is no historic significance for the project site or the existing structure.

Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303 (Class 3 Categorical Exemption - New Construction or Conversion of Small Structures) (a) applies to the construction of up to three single-family residences in urbanized areas. The project site is within an urbanized area. Therefore, this exemption applies to this project

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. **Subdivision Map Act Findings.** In accordance with Section 66474 of the Government Code of the State of California, the Director of Planning of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a tentative map, if it makes any of the following findings:
 - a. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

- b. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- c. That the site is not physically suitable for the type of development.
- d. That the site is not physically suitable for the proposed density of development.
- e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: Based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The subdivision of the subject parcel into three parcels is consistent with the General Plan goals, policies and land use designation. The subject site is physically suitable to accommodate three parcels for the purposes of single family residential use. Furthermore, the project site does not contain any historic resources or sensitive habitats or wildlife; and the subdivision will not conflict with any easements.

2. **Subdivision Ordinance Findings.** In accordance with San José Municipal Code (SJMC) Section 19.12.130, the Director may approve the Tentative Map if the Director cannot make any of the findings for denial in Government Code section 66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San Jose Municipal Code Section 19.12.220.

Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

Analysis: Based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Expiration of Map.** This Tentative Map shall automatically expire 30 months from and after date of issuance thereof by the Director of Planning, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Tentative Map. The

date of issuance is the date this Tentative Map is approved by the Director of Planning. However, the Director of Planning may approve a Tentative Map Extension to extend the validity of this Tentative Map in accordance with Title 19. An extension of the approval of the tentative map not to exceed two years may be granted by the city council or the director.

3. **Conformance to Plans.** Development of the site shall conform to the approved Tentative Map File No. T19-029 plans entitled "Tentative Parcel Map-200 Hayes Avenue," dated March 11, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
4. **Conformance with Other Permits.** Approval of the Tentative Map shall automatically expire with respect to any portion of the lands covered by such Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.
5. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
8. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
9. **Improvement Contract.** In the event the subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and shall provide the bonds and insurance mentioned therein.
10. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.
11. **Demolition of Buildings on Property Line or within Setback.** The existing structures on the subject site that would otherwise be situated on a proposed property line or cause non-conformance to the required setbacks shall be demolished to the satisfaction of the Chief Building Official prior to the recordation of documents and maps that establish the proposed changes to the location of property lines. A Demolition Permit shall be obtained from the Building Division to demolish the subject structures.

12. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
13. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
14. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <https://www.sanjoseca.gov/your-government/departments/public-works/development-services>.
 - a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 - c. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures and source controls to minimize stormwater pollutant discharges.

- d. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area but will not create and/or replace one acre or more of impervious surface. The project is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- e. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- f. **Sewage Fees:** In accordance with City Ordinance, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- g. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
- h. **Street Improvements:**
 - i. Approved documentation authorizing relocation of utility pole is required prior to the issuance of a Public Works clearance.
 - ii. Connect pedestrian crosswalk across Hayes Avenue and Lean Avenue.
 - iii. Construct curb return with 30-foot face of curb radius and install curb ramp at the southwest corner of Hayes Avenue and Lean Avenue.
 - iv. Hayes Ave frontage:
 - 1) Construct curb, gutter and 10-foot attached sidewalk with tree wells at the back of curb. 10-foot minimum sidewalk width required or match existing sidewalk width at west property line, whichever is greater.
 - 2) Approximately 10.2-foot street dedication is required on Hayes Ave.
 - v. Lean Ave frontage:
 - 1) Construct 10-foot detached sidewalk with park strip at back of curb. 4.5-foot minimum sidewalk and 4-foot minimum park strip required or match existing sidewalk width at south property line, whichever is greater.
 - 2) Condition of existing storm lateral connection and hooded inlet to be evaluated at implementation stage and replaced at Public Works discretion.
 - vi. Construct city standard 16-foot driveways.
 - vii. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - viii. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.

- i. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - j. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
15. **Revocation.** This Tentative Map is subject to revocation for violation of any of its provisions or conditions.

APPROVED and issued on this 20th day of May, 2020.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

Deputy